

REMARKS

Favorable reconsideration of this patent application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 2-8,17-21, and 26-31 have been rejected as being non-enabling under 35 USC 112; Claims 20,26,27,29, and 30 have been rejected as being unpatentable over Winn in view of Poulsen under 35 USC 103; Claims 8,18, and 21 have been rejected as being unpatentable over Winn in view of Poulsen and Baker et al. under 35 USC 103; Claims 2-5,7, and 17 have been rejected as being unpatentable over Winn in view of Poulsen and Teegarden et al. under 35 USC 103; Claim 19 has been rejected as being unpatentable over Winn in view of Poulsen, Baker et al., and Ferguson under 35 USC 103; and Claim 6 has been rejected as being unpatentable over Winn in view of Poulsen, Teegarden et al., Price, and Ferguson under 35 USC 103. Claims 2-8,17-21, and 26-31 remain active in this patent application.

In connection with the rejections of the various claims in light of the cited and applied prior art, particularly Winn and Poulsen, it is reiterated to the examiner that independent Claims 26 and 29 recite the fact that a contact member (48) is movably disposed at a cigarette carton height determination station for movement into contact engagement with an upper surface portion of a particular one of the plurality of different cigarette cartons, and that a sensor (42) is disposed at the cigarette carton height determination station for sensing the disposition of the contact member disposed in contact with the upper surface portion of the particular one of the plurality of different cigarette cartons disposed at the cigarette carton height determination station so as to in fact determine the height dimension of the particular cigarette carton. It is respectfully noted to the examiner that none of the prior art references of record, and in particular, those of Winn and Poulsen disclose the contact member and sensing means of the present invention. It is therefore submitted that all of the claims of this patent application patentably define over all of the noted prior art of record.

In connection with the rejection of the claims as being non-enabling under 35 USC 112, it is submitted that the claims are in fact proper and enabling under 35 USC 112, and therefore, the rejection of the claims under 35 USC 112 should be withdrawn. More particularly, the specification clearly discloses the presence of contact member 48 and the sensor 42, and the claims recite a contact member and a sensor means. In accordance with 35 USC 112, applicant is permitted to recite the sensor 42 as a sensor means for sensing the disposition of the contact member. It is respectfully submitted that such a claim recitation is in fact a proper recitation of operative structure in the "means for" language format. Therefore, again, it is respectfully submitted that the claims are in fact proper and enabling under 35 USC 112, and that the rejection of the claims under 35 USC 112 should be withdrawn.

It is lastly noted that the examiner has objected to the abstract as being too long, and accordingly, an abbreviated abstract is attached hereto upon a separate sheet.

In light of the foregoing, it is submitted that this patent application is now in condition for allowance, and an early and favorable action is now anticipated and awaited.

Respectfully Submitted,
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